THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19435 OF 2005

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02.9.2005

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Between:

1. Potharaju Hanmaiah, S/o.Ramaiah, Gandhinagar,

Prasanthinagar Grampanchayat, Siddipet, Medak District.

And another

… Petitioners.

AND

1. The Revenue Divisional Officer, Siddipet

and two others.

… Respondents.

ORDER:

The first petitioner is resident of Prasanthinagar Gram Panchayat. Second petitioner is his wife. The petitioners occupied an extent of 60 Sq.yards of land in S.No.1855 at four-road junction (Mustabad Chowrasta) of Prasanthinagar. They raised a building bearing No.12-4-107/1/A and allegedly paid taxes to Siddipet Municipality. It is alleged that second respondent initiated action at the behest of third respondent to demolish the building. The petitioners filed W.P.No.19611 of 2001 seeking a declaration that the respondents are not entitled to interfere with the premises in possession of the petitioners. By order dt.22.4.2002, the Writ Petition was disposed of by this Court. The respondents 1 and 2 are directed to initiate proceedings against petitioners and further prohibited them from taking any adverse action. Aggrieved by the same, petitioners filed Writ Appeal No.341 of 2003. The Division Bench disposed of the same on 17.7.2003 directing the Revenue Divisional Officer to consider the complaint of the Principal of Government Degree College along with the application of the petitioners for assignment.

The Revenue Divisional Officer, first respondent herein has given notice of hearing. He heard the matter and framed three issues. After examining the documents placed by the petitioners as well as the Principal of Government Degree College, the Revenue Divisional Officer dismissed the appeal on 27.08.2005. Be it also noted that Mandal Revenue Officer by proceedings dated 12.07.2004 against which the appeal was filed before the Revenue Divisional Officer rejected the

application of the first petitioner herein for assignment holding that the Government already alienated the land.

The learned counsel for the petitioners, Sri Koka Raghava Rao, submits that when the land is held to be the property of the third respondent, the Mandal Revenue Officer could not have initiated proceedings for eviction of the petitioners. Secondly, he would urge that the order of the Revenue Divisional Officer is vitiated by non-application of mind. This Court is afraid that both the submissions are devoid of any merit. The petitioners in all the proceedings admitted that they are in occupation of Government land and sought for assignment of the land in their favour. Even when the matter was heard by the Division Bench in W.A.No.341 of 2003, their contention was that when their application for assignment was pending proceedings for eviction are illegal. Therefore, this Court directed the Revenue Divisional Officer to simultaneously consider the application for assignment. Therefore, both the authorities came to the conclusion that the Government land, which was encroached upon by the petitioners was already assigned to the Government Degree College and therefore it cannot be again assigned. This was considered as issue No.2 by the Revenue Divisional Officer, and his reasoning and finding on the issue are as follows.

> The appellants argued that they are native of Bandacharlapally Village H/o Pullur Village of Siddipet Mandal and they have sold away their entire property and residing in the occupied land and filed a petition before the Respondent No.1 for consideration on the presumption that the occupied land is free Govt. land. Whereas the Respondent No.1 stating that the occupied land is already alienated to the Govt. Degree College long back and such alienated land cannot be again assigned to any person who occupies it and more over the Govt. land can be assigned to the residential purpose only, but not for any business purpose which is against to the rules. The Mandal Revenue Officer, Siddipet has rightly stated that the Govt. land can be assigned to the purpose of residential or agricultural purpose, but not for the business purpose which is in any form may be and also once the Govt. land is alienated to any institution which cannot be again assigned to the person who occupies, but he will be treated as trespasser. In view of the above discussion, I hold this issue in favour of the Respondent No.2 holding that the appellants occupation the Respondent No.2 land is legally invalid.

This Court, for the above reasons, does not find any infirmity in the impugned order passed by the first respondent. The writ petition is accordingly dismissed.

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(V.V.S.RAO,J)

02.09.2005.

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